IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 2136 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 14/12/2004 in WP NO : 23104 OF 2004 on the file of the High Court.)

Between:

1 R.Shaheem Begum W/o. Rasheed,
R/o.H.No.18/555 Big Bazar, Nellore, Nellore District.
2 S.M.Rasheed, S/o.Ismail,
R/o.H.No.18/555 Big Bazar, Nellore, Nellore District.

..... APPELLANTS

AND

The Mandal Revenue Officer, Podalakur Mandal, Nellore District.

.....RESPONDENT

Counsel for the Appellants :SMT.CHINTALAPUDI LAKSHMI KUMARI

Counsel for the Respondent : GP FOR ASSIGNMENT.

The Court made the following :

ORAL JUDGMENT:

(per Hon'ble The Chief Justice)

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1. Appellants filed writ petition questioning the legality and validity of the order dated 03.08.2004 passed by the Mandal Revenue Officer, Podalakur. Learned single Judge disposed of the writ petition on the ground of availability of statutory appeal to challenge the order impugned in the writ petition. This appeal has been preferred to set aside the order of the learned single Judge.

2. We have heard learned counsel for the parties.

3. We have gone through the order dated 03.08.2004 and the reply to the show-cause notice issued to the petitioners calling upon their explanation why assigned lands should not be resumed. In fact assigned lands were sought to be resumed on the ground that the lands are C.J.F./D Form lands and that the same were liable to be resumed. When show-cause notice was issued, writ petition was filed and the same was dismissed by this Court on the ground that it was for the petitioners – appellants to file their reply and only in case they are aggrieved by the final orders, the same can be challenged in accordance with law. Mandal Revenue Officer noticing these facts held that the lands in question are assigned lands. But without considering the other objections raised by the petitioners – appellants, in a mechanical manner the Mandal Revenue Officer said that after observing all

formalities, he is ordering resumption of the assigned lands to the Government under B.S.O. 15/12/3/(111) for violation of Condition No.2 of D.Form patta.

4. As a matter of fact, it is very cryptic where the Mandal Revenue Officer passed order without taking into consideration the stand of the petitioners – appellants and without holding any enquiry. Mandal Revenue Officer was required to follow the principles of natural justice meticulously, that opportunity of being heard is not merely an eye wash but it has to be an effective hearing and there has to be an enquiry conducted in case petitioners – appellants would like to produce records. Having failed to do so, the order of the Mandal Revenue Officer is vitiated because of the violation of principles of natural justice. We would have relegated the appellants to alternative remedy, but violation of principles of natural justice makes the order nullity. Consequently, we allow the appeal, set aside the impugned order, allow the writ petition and set aside the order impugned in the writ petition with direction that Mandal Revenue Officer will issue a comprehensive show-cause notice and give due opportunity to the appellants – petitioners to submit their reply and afford them an opportunity to produce such documentary evidence which they would like to produce and then proceed to decide the matter in accordance with law. No costs.

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DEVINDER GUPTA. C.J.,

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M. NARAYANA REDDY. J.,

Dated: 30.12.2004.

VRK.

To

1. The Mandal Revenue Officer, Podalakur Mandal,
Nellore District.

2. Two CCs to G.P., for Assignment, High Court Buildings, Hyderabad (OUT).

3. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE M. NARAYANA REDDY.

W.A.NO. 2136 OF 2004.

(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 30.12.2004.

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